

The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 30th November, 2016

[Amended upto date((Last amended on 24.09.2020))]

G.S.R. 1108(E)—In exercise of the powers conferred by clauses (c), (d), (e) and (f) of sub-section (1) of section 239 read with sections 7, 8, 9 and 10 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following Rules, namely-

1. Short title and commencement—

(1) These rules may be called the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

(2) They shall come into force from the 1st day of December, 2016.

2. Application—These Rules shall apply to matters relating to the corporate insolvency resolution process.

3. Definitions—(1) In these Rules, unless the context otherwise requires,-

(a) “**Code**” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(b) “**corporate insolvency resolution process**” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;

(c) “**credit information company**” shall have the meaning as assigned to it under the Credit Information Companies (Regulation) Act, 2005 (30 of 2005);

(d) “**financial contract**” means a contract between a corporate debtor and a financial creditor setting out the terms of the financial debt, including the tenure of the debt, interest payable and date of repayment;

(e) “**Form**” means a Form appended to these rules;

(f) “**identification number**” means the limited liability partnership identification number or the corporate identity number, as the case may be, of the corporate person;

(g) “**Schedule**” means the Schedule appended to these rules.

(2) All the words and expressions used herein and not defined shall have the meanings respectively assigned to them under the Code.

4. Application by financial creditor—

(1) A financial creditor, either by itself or jointly, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 7 of the Code in Form 1, accompanied with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(2) Where the applicant under sub-rule (1) is an assignee or transferee of a financial contract, the application shall be accompanied with a copy of the assignment or transfer agreement and other relevant documentation to demonstrate the assignment or transfer.

((Substituted by the Insolvency and Bankruptcy (Application to Adjudicating Authority) (Amendment) Rules, 2020 vide Notification No. G.S.R. 583(E) dated 24.09.2020.

Prior to Substitution, the sub-Rule as under:

"(3) The applicant shall dispatch forthwith, a copy of the application filed with the Adjudicating Authority, by registered post or speed post to the registered office of the corporate debtor.")[(3) The applicant shall serve a copy of the application to the registered office of the corporate debtor and to the Board, by registered post or speed post or by hand or by electronic means, before filing with the Adjudicating Authority.]

(4) In case the application is made jointly by financial creditors, they may nominate one amongst them to act on their behalf.

5. Demand notice by operational creditor—

(1) An operational creditor shall deliver to the corporate debtor, the following documents, namely.- .

- (a) a demand notice in Form 3; or
- (b) a copy of an invoice attached with a notice in Form 4.

(2) The demand notice or the copy of the invoice demanding payment referred to in sub-section (2) of section 8 of the Code, may be delivered to the corporate debtor,

- (a) at the registered office by hand, registered post or speed post with acknowledgement due; or
- (b) by electronic mail service to a whole time director or designated partner or key managerial personnel, if any, of the corporate debtor.

(3) A copy of demand notice or invoice demanding payment served under this rule by an operational creditor shall also be filed with an information utility, if any.

6. Application by operational creditor—

(1) An operational creditor, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 9 of the Code in Form 5, accompanied

with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

((Substituted by the Insolvency and Bankruptcy (Application to Adjudicating Authority) (Amendment) Rules, 2020 vide Notification No. G.S.R. 583(E) dated 24.09.2020.

Prior to Substitution, the sub-Rule as under:

"(2) The applicant under sub-rule (1) shall dispatch forthwith, a copy of the application filed with the Adjudicating Authority, by registered post or speed post to the registered office of the corporate debtor.")[(2) The applicant under sub-rule (1) shall serve a copy of the application to the registered office of the corporate debtor and to the Board, [by registered post or speed post or by hand or by electronic means](#), before filing with the Adjudicating Authority.]

7. Application by corporate applicant—

(1) A corporate applicant, shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 10 of the Code in Form 6, accompanied with documents and records required therein and as specified in the [Insolvency and Bankruptcy Board of India \(Insolvency Resolution Process for Corporate Persons\) Regulations, 2016](#).

((Substituted by the Insolvency and Bankruptcy (Application to Adjudicating Authority) (Amendment) Rules, 2020 vide Notification No. G.S.R. 583(E) dated 24.09.2020.

Prior to Substitution, the sub-Rule as under:

"(2) The applicant under sub-rule(1) shall dispatch forthwith, a copy of the application filed with the Adjudicating Authority, by registered post or speed post to the registered office of the corporate debtor.")[(2) the applicant under sub-rule (1) shall serve a copy of the application to the Board [by registered post or speed post or by hand or by electronic means](#), before filing with the Adjudicating Authority.]

8. Withdrawal of application—The Adjudicating Authority may permit withdrawal of the application made under rules 4, 6 or 7, as the case may be, on a request made by the applicant before its admission.

9. Interim resolution professional—

(1) The applicant, wherever he is required to propose or proposes to appoint an insolvency resolution professional, shall obtain a written communication in Form 2 from the insolvency professional for appointment as an interim resolution professional and enclose it with the application made under rules 4, 6 or 7, as the case may be.

(2) The application under sub-rule (1) shall be accompanied by a certificate confirming the eligibility of the proposed insolvency professional for appointment as a resolution professional in accordance with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for

Corporate Persons) Regulations, 2016.

10. Filing of application and application fee—

(1) Till such time the rules of procedure for conduct of proceedings under the Code are notified, the application made under sub-section (1) of section 7, sub-section (1) of section 9 or sub-section (1) of section 10 of the Code shall be filed before the Adjudicating Authority in accordance with rules 20, 21, 22, 23, 24 and 26 of Part III of the National Company Law Tribunal Rules, 2016.

(2) An applicant under these rules shall immediately after becoming aware, notify the Adjudicating Authority of any winding-up petition presented against the corporate debtor.

(3) The application shall be accompanied by such fee as specified in the Schedule.

(4) The application and accompanying documents shall be filed in electronic form, as and when such facility is made available and as prescribed by the Adjudicating Authority: Provided that till such facility is made available, the applicant may submit the accompanying documents, and wherever they are bulky, in electronic form, in scanned, legible portable document format in a data storage device such as a compact disc or a USB flash drive acceptable to the Adjudicating Authority.

Forms